

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DOUGLAS RIVERA,

Petitioner,

v.

9:20-CV-0865
(GTS/ATB)

JOHN RICH, Super., Elmira Corr. Fac.,

Respondent.

APPEARANCES:

DOUGLAS RIVERA, 15-B-2793

Petitioner, *Pro Se*

Marcy Correctional Facility

P.O. Box 3600

Marcy, New York 13403

HON. LETITIA A. JAMES

Attorney General for the State of New York

Counsel for Respondent

28 Liberty Street

New York, New York 10005

MARGARET A. CIEPRISZ, ESQ.

Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this habeas corpus proceeding filed *pro se* by Douglas Rivera (“Petitioner”) pursuant to 28 U.S.C. § 2254, is United States Magistrate Judge Andrew T. Baxter’s Report-Recommendation recommending that the Petition be denied and dismissed, and that no certificate of appealability be issued. (Dkt. No. 41.) Petitioner has not filed an objection to the Report-Recommendation, and the time in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Baxter's thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.¹ Magistrate Judge Baxter employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, Petitioner's Petition is denied and dismissed, and no certificate of appealability shall be issued.

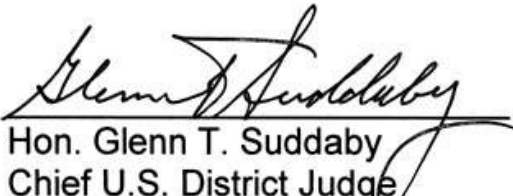
ACCORDINGLY, it is

ORDERED that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 41) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Petitioner's Petition for a Writ of *Habeas Corpus* (Dkt. No. 1) is **DENIED** and **DISMISSED**.

The Court declines to issue a certificate of appealability.

Dated: May 23, 2022
Syracuse, New York


Hon. Glenn T. Suddaby
Chief U.S. District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).